THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26673 of 2001

Dated:24.08.2007

Between:

Smt.Tahera Abida, W/o.Mohammed Moinuddin Ghori.

…Petitioner

and

The Government of Andhra Pradesh,
Rep.by its Principal Secretary,
Revenue Department,
Secretariat, Hyderabad,
And others.

…Respondents

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ORDER:

The petitioner is ordinarily a resident of Abudhabi, UAE, residing at Akbar Bagh, Hyderabad, at the time of filing the Writ Petition. She allegedly purchased the land in an extent of Acs.3.20 guntas in Survey No.161 and Ac.1.00 in survey No.186 situated at Balapur Village of Saroornagar Mandal in Ranga Reddy District (hereinafter called, petition schedule land), under two separate sale deeds dated 14.06.2000 and 21.06.2000 from Mohammed Khaja Ghouse, Mohiuddin and Mohammed Asifuddin. She is allegedly in possession of the same, constructed cattle sheds and growing vegetables and dry crops in the property. On 24.12.2001, the staff from the Office of the fourth respondent visited the petitioner's land and informed her servants that the petitioner purchased the land, which was declared as surplus vacant land under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'). She alleges that no notice was issued to her and if she is dispossessed from the land, she would suffer legal injury. Therefore, she filed the instant Writ Petition, *inter alia*, seeking an injunction against the respondents from evicting her from the petition schedule land.

A counter affidavit is filed by the Additional Special Officer – I, in the Office of the second respondent. In brief, the case of the respondents is that

Myakala Maisamma and M/s.Yadaiah, Beerappa and Balaiah filed declarations under Section 6(1) of the Act, being C.C.Nos.4677/76, 4678/76, 4680/76 and 4679/76, declaring individually a large extent of land in various survey numbers including Survey Nos.161 and 186 of Balapur Village. These were processed and a draft statement under Section 8(1) of the Act was issued on 12.09.1994, though the notices were served on 30.10.1994. The declarants did not submit objections. Therefore, the second respondent passed final orders under Section 8(4) of the Act and issued final statement under Section 9 of the Act in his proceedings dated 19.12.1994 declaring the surplus vacant land in respect of each of the declarants. This land also included the land in survey numbers 161 and 186. Be that as it is, thereafter, the Special Officer published notice under Section 10(1) of the Act in the Andhra Pradesh Gazette dated 30.03.1995 followed by a notification under Section 10(3) of the Act in Andhra Pradesh Gazette dated 10.08.1995. The counter affidavit also refers to the notices issued under Section 10(5) of the Act to all the declarants for taking possession. After receiving such notices, when the Officials went to take possession of the land, the petitioner who purchased the land in contravention of the provisions of the Act, filed the instant writ petition.

This is an old matter of 2001. Though the matter is coming up for final hearing, none appears for the petitioner and the learned Counsel for the petitioner is absent. Therefore, this Court heard the learned Special Counsel for Urban Land Ceiling. He submits that when the notice is issued under Section 10(5) of the Act after following the entire procedure contemplated under the Act, the petitioner who purchased the property after coming into force of the Act cannot have any legal right. It is his contention that any sale of vacant land after coming into force of the Act is void. He further does not dispute that the petitioner was not specifically given any notice under Section 10(5) of the Act. A bare perusal of Section 10(5) of the Act would show that when vacant land is vested in the State Government under section 10(3) of the Act, the competent authority shall have to issue notice to “any person who may be in possession of it to surrender or deliver possession thereof” to the State Government. In this case, the notice to the petitioner or her farm servants is very conspicuous by its absence. This position is not seriously demurred. On this limited ground alone, the case of the petitioner has to be upheld.

Accordingly, this Writ Petition is disposed of observing that if the petitioner is still in possession of the property, unless and until a proper notice is issued to her under Section 10(5) of the Act, the second respondent cannot dispossess the petitioner. This Court also observes that if the petitioner has any grievance after receiving the notice under Section 10(5) of the Act, it is open to her to prefer an appeal against the order of the Special Officer under Section 8(4) of the Act and also notice under Section 10(5) of the Act. No

costs.

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(V.V.S.RAO, J)

24.08.2007
vs